

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
LARRY D. VAUGHT, JUDGE

DIVISION II

CA07-951

March 12, 2008

SUPERIOR INDUSTRIES and
CROCKETT ADJUSTMENT
APPELLANTS

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[No. F600229]

V.

SANTOS BARRERA

APPELLEE

AFFIRMED

This is an appeal from a decision of the Workers' Compensation Commission finding that appellee Santos Barrera sustained compensable gradual-onset injuries to both of his shoulders while employed by appellant Superior Industries. Superior concedes that Barrera sustained right-shoulder injuries. The sole issue on appeal is whether there is substantial evidence to support the Commission's finding that Barrera's left shoulder was also injured. We affirm.

Barrera began working for Superior on January 10, 1996. He worked for approximately seven years as a wheel-rim sharpener. He was charged with sharpening the rims and then moving them from one side of the area to another. This work was labor intensive and required the use of both of his hands and arms. He worked six-day weeks, for ten to twelve hours per day performing these repetitive tasks.

He then began a different job at Superior, where he was charged with placing the rims on a robot, otherwise known as the “nickel line.” He did this work, which required the rapid use of his arms and shoulders, for approximately three years. The rims that he was required to lift overhead and place on the robot weighed roughly twenty-five to thirty pounds, and up to seventy pounds. On October 20, 2005, Barrera was told he would be moved to a more intense job working with copper—a job that he ultimately was unable to physically perform due to severe pain in his shoulders.

Barrera underwent surgery to his right shoulder on February 3, 2006. At this time, Superior had not accepted Barrera’s right-shoulder injury as compensable, so the procedure was paid for by his wife’s insurance. Superior has since conceded that Barrera did in fact sustain a compensable right-shoulder injury, that objective medical findings supported the existence of the injury, and that surgical intervention was reasonable and necessary.

Barrera remains under a doctor’s care for his “bilateral shoulder pain”—of which he had consistently complained since March of 2003. The issue on appeal is simple and straightforward. Superior claims that there is no substantial evidence to support the Commission’s conclusion that Barrera also suffered a compensable left-shoulder injury. Superior argues that because the only test conducted on Barrera’s left shoulder was a nerve conduction study that came back “normal,” the case must be reversed for lack of an objective finding of injury.

Arkansas Code Annotated section 11-9-101 (Repl. 2002) requires that Barrera show

by a preponderance of the evidence that his injury caused internal or external harm to the body and that it is supported by objective findings. The Commission believed that he met his burden in this regard. We affirm the Commission's decision when there is substantial evidence on record to support its findings. *Express Human Res. III v. Terry*, 61 Ark. App. 258, 968 S.W.2d 630 (1998). Substantial evidence is that relevant evidence that a reasonable mind might accept as adequate to support a conclusion. *Id.*

Questions concerning the credibility of witnesses and the weight to be given to their testimony are within the exclusive province of the Commission. *Patterson v. Ark. Dep't of Health*, 343 Ark. 255, 33 S.W.3d 151 (2000). When there are contradictions in the evidence, it is within the Commission's province to reconcile conflicting evidence and to determine the true facts. *Id.* The Commission has the authority to accept or reject medical opinions, and its resolution of the medical evidence has the force and effect of a jury verdict. *Poulan Weed Eater v. Marshall*, 79 Ark. App. 129, 84 S.W.3d 878 (2002). Thus, we are foreclosed from determining the credibility and weight to be accorded to each witness's testimony. *Arbaugh v. AG Processing, Inc.*, 360 Ark. 491, 202 S.W.3d. 519 (2005).

In this case, a JPA Clinic medical report dated July 22, 2005, contains an observation that Barrera suffered from "muscle spasms." He was prescribed an oral muscle relaxer to help manage his "bilateral shoulder pain." Dr. Christopher A. Arnold treated Barrera's muscle spasms by injecting both shoulders with medication; Dr. Arnold also referred Barrera to another physician, Dr. Mike Morse, for further evaluation. In *Estridge v. Waste Management*, 343 Ark. 276, 33 S.W.3d 167 (2002), our supreme court concluded that muscle spasms can

constitute objective medical findings. The court went on to note that “[a] doctor would not prescribe medication directed to be taken ‘as needed for muscle spasm’ if he did not believe muscle spasms were existent.” *Id.* at 281, 33 S.W.3d at 171.

The evidence showed that Barrera’s medical records contained observations of muscle spasms, that he was prescribed an oral muscle relaxer to address his consistent complaints of *bilateral* shoulder pain, and that he received injections in *both* of his shoulders to treat the spasms. Further, the Commission found Barrera’s testimony to be credible—including his claims that he had consistently complained of both right- and left-shoulder pain and that he had been told by his treating physician that once his right shoulder had stabilized he would possibly need surgery on his left shoulder. Finally, there was evidence in the record showing that the various manual-labor jobs that Barrera performed for Superior required strenuous use of *both* of his shoulders. Taken together, Barrera’s testimony, the medical records, and the physician’s observations provide substantial evidence to support the Commission’s conclusion that Barrera objectively proved injury to his left shoulder. As such, we affirm the Commission’s decision.

Affirmed.

GLADWIN and GLOVER, JJ., agree.